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FILED

**AFFIDAVIT IN SUPPORT OF AN
APPLICATION FOR A CRIMINAL COMPLAINT**

2018 JUN 19 AM 7:58

CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
TELECO
I, Lino Paolo E. Aguja, a Special Agent with Homeland Security Investigations (HSI),
being duly sworn, depose and state as follows:

INTRODUCTION

1. I have been employed as a Special Agent (SA) of HSI since September 12, 2005, and am currently assigned to the HSI Cleveland office. While employed by HSI, I have investigated federal criminal violations involving high technology or cybercrime, child pornography, commercial fraud, immigration, and intellectual property rights. I am a graduate of the Federal Law Enforcement Training Center's Criminal Investigator Training Program and the Immigration and Customs Enforcement Special Agent Training Program.

2. As a federal agent, I am authorized to investigate violations of United States laws and to execute warrants issued under the authority of the United States.

PURPOSE OF AFFIDAVIT

3. This affidavit is made in support of an application for a criminal complaint against Seong Ok KIM.

4. The statements in this affidavit are based on my own investigation as well as information provided by other law enforcement professionals and law enforcement databases. Since this affidavit is being submitted for the limited purpose of establishing probable cause for a criminal complaint, I have not included each and every fact known in this investigation. Affiant submits that there is probable cause of violations of 18 United States Code, Section 2320, trafficking in goods knowing that a counterfeit mark has been applied thereto which is likely cause confusion, to cause mistake, or to deceive.

SUMMARY OF INVESTIGATION

5. HSI Headquarters as the lead of the National Intellectual Property Rights Coordination Center in Arlington, Virginia, received information that Seong Ok KIM, DOB: 2/11/1943, known to have previously sold various goods with infringing marks, would likely be attending the Shishewana on the Road flea market in Sylvania, Ohio as a vendor. On April 20, 2018, HSI Cleveland forwarded the information to Sylvania Police Department.

6. Sylvania Police Detective Joshua Seney received further information from Lbrand Brand Protection Investigators that KIM will be at the Shishewana on the Road flea market. The Shishewana on the Road flea market was scheduled to be located at Sylvania Tam-O-Shanter, 7060 W. Sylvania Avenue, Sylvania, Lucas County, Ohio on April 21, 2018 and April 22, 2018.

7. On April 21, 2018, Sylvania Police Detectives met with Lbrand intellectual property investigators. Sylvania PD were provided photographs of KIM and KIM's associate, Miguel BAEZ. The Detectives and investigators proceeded to the Shishewana trade show at the Sylvania Tam-O-Shanter. KIM's trade show booth was observed at the Tam-O-Shanter. An Lbrand investigator identified a shirt with a counterfeit Victoria's Secret Trademark Logo. The counterfeit item was a long-sleeved green and white shirt. The Victoria's Secret logo, "Victoria's Secret", appeared on the shirt. The logo was substantially indistinguishable from a mark that Lbrands has registered on the principal trademark registry with the United States Patent and Trademark Office, specifically, Registration Number 1908042. Lbrands registered this mark and currently uses it for the purpose of placing it on goods similar to the ones KIM was selling, including shirts. The mark on the green and white shirt appears materially indistinguishable from the mark registered by Lbrands and appears likely to cause confusion or

mistake with the authentic registered mark. Detective Steven Papenfuss brought the shirt to the sales register operated by KIM. KIM sold the shirt to Detective Papenfuss.

8. Sylvania PD placed KIM and BAEZ under arrest for Trademark Counterfeiting. Sylvania PD seized approximately 1,100 items of clothing bearing infringing marks. The market value of non-counterfeit comparable clothing items is approximately \$55,000. The infringed trademarks included: North Face, General Motors, Ford Motor Company, Fox Racing, Gas Monkey, Harley-Davidson, Jeep Corporation, Under Armour, and Victoria's Secret. Sylvania PD also seized a Samsung Galaxy Note and Verizon LG tablet from KIM.

9. KIM and BAEZ were transported to Sylvania PD. At the Sylvania PD, KIM and BAEZ were separated and interviewed by Detective Papenfuss. KIM was read his Miranda Rights by Detective Papenfuss. KIM agreed to talk to the Detective. KIM admitted to Detective Papenfuss that some of the clothes at the flea market were counterfeit.

10. Detective Papenfuss read BAEZ his Miranda Rights. BAEZ agreed to talk to the Detective. BAEZ indicated to the Detective that KIM told BAEZ that KIM has a printing machine and has seen KIM use the machine to put logos on clothes in the past. BAEZ further indicated that the items at the flea market were transported from the state of Illinois to Ohio. BAEZ is currently in removal proceedings and detained by the Department of Homeland Security.

11. Detective Seney conducted forensic preview of KIM's devices. The preview revealed the following conversations:

- (a) Orders from a named contact with a given phone number. On 12/16/2015, the named contact placed an order for North Face, Under Armour, and Gas

Monkey hoodies. On 1/12/2016, the contact placed another order of Under Armour and North Face hoodies.

(b) On 3/26/2018, a Gas Monkey Logo was received from an unnamed contact with a given phone number. The logo is reversed, indicating use on a printing press.

12. Database queries revealed numerous arrests and convictions for KIM for trademark violations dating back to June 1992. One of those arrests was on April 21, 2001, KIM was arrested by Maumee PD (Ohio) for selling counterfeit clothing at the Shipshewana on the Road at the Lucas County Recreation Center. KIM was charged with Trademark Counterfeiting (F-4) and pled no contest to Attempted Trademark Counterfeiting (F-5). The queries also revealed an ongoing case with the 67th District Court in the State of Michigan. KIM was charged with the felony charge of Counterfeit marks.

CONCLUSION

13. On April 21, 2018, in the Northern District of Ohio, Seong Ok KIM intentionally sold clothes with counterfeit marks at the Sylvania Tam-O-Shanter in violation of 18 United States Code, Section 2320, trafficking in goods knowing that a counterfeit mark has been applied thereto which is likely cause confusion, to cause mistake, or to deceive.

14. Based on the foregoing information and my experience and training, I believe there is sufficient probable cause to believe that violation of 18 United States Code, Section 2320 has occurred.

s/ LinoPaolo E. Aguja

LinoPaolo E. Aguja
Special Agent/HSI

Jun 18, 2018

Sworn to via telephone after
submission by reliable electronic
means. Crim. Rules. 4.1; 41(d)(3)



A handwritten signature in black ink, appearing to read "James R. Knepp, II". The signature is stylized with a large, sweeping "J" and a long, horizontal stroke at the end.

James R. Knepp, II
United States Magistrate Judge